

Publication Date: February 5, 2009

Effective: February 5, 2009 through July 4, 2009

Hearing Date: March 20, 2009

NOTICE OF ORDER OF THE GOVERNMENT ACCOUNTABILITY BOARD

The Wisconsin Government Accountability Board proposes an order to adopt an emergency rule to amend GAB 6.05, Wis. Adm. Code, relating to filing campaign finance reports in electronic format.

STATEMENT OF EMERGENCY FINDING:

The Government Accountability Board amends GAB 6.05, Wis. Adm. Code, relating to filing campaign finance statements in electronic format. The amended rule creates a uniform requirement and restricts registrants to an “electronic format” compatible with the Board’s electronic filing system for filing campaign finance reports.

Pursuant to §227.24, Stats., the Government Accountability Board finds an emergency exists because the Board’s January 18, 2008 decision to implement the use of a new electronic filing system, and the technical requirements thereof, conflicts with the technical electronic format filing permitted by the previous rule. In effect, the current electronic filing system cannot work without a uniform and restricted electronic format that is compatible with the new electronic filing system.

The Board adopts the legislature’s policy findings of s. 11.001, Stats., emphasizing that one of the most important sources of information to voters about candidates is available through the campaign finance reporting system. The Board further finds that it is necessary to codify a uniform electronic format filing requirement to ensure the proper operation of the current electronic filing system so that the campaign finance information is available to voters. The amended rule, GAB 6.05, must be adopted immediately to ensure the public peace and welfare with respect to the administration of current and future elections.

ANALYSIS PREPARED BY GOVERNMENT ACCOUNTABILITY BOARD:

1. Statutes interpreted: s.11.21(16), Stats.
2. Statutory authority: ss. 11.21(16), 5.05(1)(f), 227.11(2)(a) and 227.24, Stats.
3. Explanation of agency authority: Under the existing statute, s. 11.21(16), Stats., the Government Accountability Board is specifically charged with developing rules to address compliance with the electronic format filing requirement of this statute. Under the existing rule, GAB 6.05 the term “electronic format” does not restrict registrants to the electronic filing system currently in use by the Board. Adoption of this rule will create a uniform electronic format filing requirement that is compatible with the Board’s current electronic filing system.
4. Related statute(s) or rule(s): Wisconsin Statutes ch. 11—Campaign Financing.
5. Plain language analysis: This amended rule, GAB 6.05, creates a uniform requirement and restricts registrants to an “electronic format” compatible with the Board’s electronic filing system for filing campaign finance reports.
6. Summary of, and comparison with, existing or proposed federal regulations: Federal regulations mandated electronic filing of campaign finance reports with a standard uniform system since January 1, 2001. 11 CFR 104.18.
7. Comparison with rules in adjacent states: Illinois mandates electronic filing of campaign finance reports with a standard uniform system for committees exceeding \$10,000.00 in receipts or expenditures, strongly encouraging all other committees to file electronically. Michigan, Minnesota, and Iowa have optional electronic filing of campaign finance reports.
8. Summary of factual data and analytical methodologies: Adoption of the rule was primarily predicated upon the legislature’s previous appropriation of funds to purchase an electronic filing system for campaign finance reports.

In addition, the Government Accountability Board approved the use of an electronic filing system for campaign finance reports beginning year end 2008.

9. Analysis and supporting documentation used to determine effect on small businesses: The rule will have no effect on small business, nor any economic impact.
10. Effect on small business: The creation of this rule does not affect business.
11. Agency contact person: Shane W. Falk, Staff Counsel, Government Accountability Board, 212 E. Washington Avenue, 3rd Floor, P.O. Box 2973, Madison, Wisconsin 53701-2973; Phone 266-2094; Shane.Falk@wisconsin.gov

FISCAL ESTIMATE: The creation of this rule has no new fiscal effect. The legislature has previously appropriated funds to purchase the electronic filing system for campaign finance reports.

INITIAL REGULATORY FLEXIBILITY ANALYSIS: The creation of this rule does not affect business.

TEXT OF PROPOSED RULE:

Pursuant to the authority vested in the State of Wisconsin Government Accountability Board by ss. 11.21(16), 5.05(1)(f), 227.11(2)(a) and 227.24, Stats., the Government Accountability Board hereby adopts an emergency rule amending GAB 6.05, Wis. Adm. Code, interpreting s. 11.21(16), Stats., as follows:

GAB 6.05 Filing campaign finance reports in electronic format. (1) Definitions: As used in this rule:

- (a) "Campaign period" for a candidate, personal campaign committee or support committee has the same meaning as provided in s. 11.26 (17), Stats., and for any other registrant begins on January 1 of an odd-numbered year and ends on December 31 of the following year.
- (b) "Contribution" has the same meaning as provided in s. 11.01 (6), Stats.
- (c) "Electronic format" means ~~computer diskette or a computer file created using Access or Excel software or software that produces a delimited file~~ the government accountability board's internet-based Campaign Finance Information System.
- (d) "Filing officer" means the government accountability board.
- (e) "Registrant" has the same meaning as provided in s. 11.01 (18m), Stats.
- (f) "Report" means any filing required by ss. 11.05, 11.06, 11.12 (5) and (6), 11.20, and 11.23, Stats.
- (2) Any registrant who files with the government accountability board and who accepts contributions or makes disbursements in a total amount or value of \$20,000 or more during a campaign period shall file each campaign finance report that is required to be filed by ch. 11, Stats., in ~~an~~ the electronic format specified by this rule.
- (3) Any registrant not required to file reports electronically may elect to file any campaign finance report in ~~an~~ the electronic format specified by this rule.
- (4) Any campaign finance report filed in ~~an~~ electronic format shall be transmitted in time to be received by the filing officer no later than the time provided by law for filing the report. Any registrant who files a campaign finance report electronically shall, thereafter, file electronically all campaign finance reports required to be filed by the registrant.
- ~~(5) A registrant shall submit a trial report to the board before the end of the report period to determine if the report is in a format that meets the board's requirements set out in this rule.~~

~~(6)(5)~~ Each registrant who files a report in ~~an~~ the electronic format specified by this rule shall file, with the filing officer, a paper copy of the report that complies with the format set forth in Forms EB-2, EB-2a, EB-3, EB-4, EB-7, EB-10, EB-10a, EB-12 or EB-24. That paper copy of the report shall be signed by an individual authorized by the registrant to file and filed no later than the time prescribed by law for filing the report need not file a copy of the report in any other medium and shall be deemed to have satisfied the requirement of s. 11.21 (16), Stats.